

Remarks

Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which is being regarded as invention.

Independent Claims 1, 10 and 14 have been amended to clarify the type of diagnosis and set forth the steps in accordance with the preamble.

Dependent Claims 2, 3 and 4 have been amended to designate that the test is diagnostic in nature.

Claims 1-4 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by a 96 well plate. It is respectfully submitted that a 96 well plate simply aligns rows of wells within a single plate to facilitate testing multiple specimens. The 96 well plate does not incorporate any means to remove one or more of the plates from the remaining plates through the use of separators or other means incorporated within the structure.

In the instant invention the structure is designed to enable the wells to separated from one another, a feature not found in a 96 well plate.

Claims 1 – 4, 6 – 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Alemohammad US 5,262,156, ('156). In the '156 patent a test kit is taught having a plurality of wells, either coated or uncoated, in which to test for H. pylori. The '156 patent does not, however, describe this kit further other than stating it is “compartmental enclosure containing a plurality of wells with plates ...” (Col 8, lines 60 – 61). There are no teachings within the '156 patent to indicate that the wells are initially in a single unit, or carrier, and can be separated from one another either prior to or subsequent to the placement of the specimens. The '156 patent is directed to the preparation of antigens, not to the structure within which the test were performed. Presumably because of the focus of the '156 patent, a specific apparatus for the performance of the tests was not defined.

The pending application, however, is specifically directed to a novel carrier within which tests can be performed. Because of the direction of the instant invention, the carrier is defined, and claimed, including the novel separator that enables the wells to be easily separated when applicable for the testing procedures. The independent claims, as currently amended, state that through use of

a separator member, the wells within the carrier are separable from one another, a feature not found in the prior art.

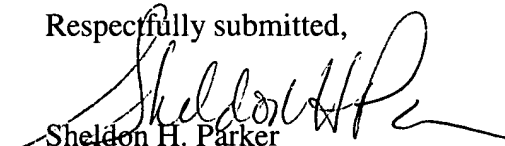
Claims 5, 7 – 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Alemohammad in view of Baltateanu. It is submitted that the pincer design, especially that illustrated as Figure 4c of Baltateanu, is not unique and has been used in devices ranging from tweezers to BBQ tools. The novelty in the instant invention lies in the combination of a specimen handling tool with the novel carrier as set forth in the claims. As noted above, the Alemohammad patent does not disclose a carrier having the separation of the wells enabled through use of a separator integral with the carrier structure. It is respectfully submitted that the addition of a tool of any design would not overcome the basic issue that the Alemohammad patent lacks the unique features as set forth in the currently pending claims.

The pending claims, after amendments, continue to be subject matter that is commonly owned by all inventors.

With respect to related cases, the novelty addressed in the instant invention is the ability to separate the wells from one another and it is submitted that the amended claims make this focus clearer. Currently other pending cases that relate unique features of the carrier are SN 09/977,547, 09/977,546 and 09/977,667.

In view of the foregoing Claim amendments and Remarks it is respectfully submitted that the application is in condition for allowance and an early Notice of Allowance is respectfully requested.

Respectfully submitted,



Sheldon H. Parker
Reg. No. 20738

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Jagtiani & Guttag
10363-A Democracy Lane
Fairfax, VA 22030
Phone – 434-817-6606
Fax – 703-591-5907
Sheldon.Parker@jagtiani.com

Donald J. McMichael et al
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August 30, 2004
Page 6 of 6